

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

ELIZABETH TILY, SHAUNA BERMAN,
AMANDA BIRD, TRACEY BOYLE,
JULIA CASTORANI, MEGHAN DREW,
LINDA FOREMAN, SHARON MCGEE,
ABIGAIL O'CONNELL, AMANDA
REARDON, and MARIE ZWALL

Plaintiffs,

v.

THOMAS JEFFERSON UNIVSERITY
HOSPITALS, INC. d/b/a THOMAS
JEFFERSON UNIVERSITY HOSPITAL,

Defendant.

Case No. _____

Removed from the Court of Common Pleas of
Philadelphia County, Case No. 210700261

NOTICE OF REMOVAL

Defendant Thomas Jefferson University Hospitals, Inc. ("TJUH") removes Case No. 210700261 from the Court of Common Pleas of Philadelphia County, Pennsylvania to the United States District Court of the Eastern District of Pennsylvania under 28 U.S.C. § 1446, stating:

1. Plaintiffs filed a civil action against TJUH in the Court of Common Pleas of Philadelphia County on July 7, 2021. Plaintiffs' Complaint is attached as Exhibit A.
2. Plaintiffs served TJUH on July 8, 2021. Plaintiffs' Affidavit of Service is attached as Exhibit B.
3. TJUH files this notice of removal within the 30-day period required by 28 U.S.C. § 1446(b)(1).
4. Plaintiffs, employees of TJUH, essentially allege two conceptual categories of claims against TJUH: (i) an alleged failure to effectuate purported pay increases, and (ii) gender

discrimination based on TJUH having allegedly paid Plaintiffs – all female registered nurses – less than a male nurse. (Pls.’ Compl. ¶¶ 21–40.)

5. Plaintiffs’ Complaint includes four counts: (i) violations of Pennsylvania’s Wage Payment and Collection Law; (ii) breach of contract; (iii) promissory estoppel, detrimental reliance, and unjust enrichment; and (iv) violations of the Equal Pay Act. (Pls.’ Compl. ¶¶ 41–52.)

6. Plaintiffs’ first three counts arise under state law. The fourth count arises under federal law, specifically the Equal Pay Act, 29 U.S.C. § 206. (*See* Pls.’ Compl. ¶¶ 39, 51–52.)

7. While Plaintiffs do not explicitly state whether their wage discrimination claims arise under the federal Equal Pay Act, which amended the Fair Labor Standards Act (“FLSA”), or Pennsylvania’s Equal Pay Law, 43 Pa.C.S §§ 336.1–336.10, the only possible claim Plaintiffs could assert is one under the federal Equal Pay Act due to the small number of workers covered by Pennsylvania’s Equal Pay Law. Specifically, Pennsylvania’s Equal Pay Law excludes from coverage any employee who is covered by the federal Equal Pay Act, and Plaintiffs are covered by that federal statute because TJUH is a covered “employer” and the Plaintiffs are covered “employees” under the FLSA. *See* 43 Pa.C.S. § 336.2(a); *see also* 29 U.S.C. § 203(d)-(e).

8. Because the Plaintiffs do not allege – nor could they – that they are excluded from coverage under the Equal Pay Act, the Court can conclude that their wage discrimination claims are based on federal law. *See Rush v. Scott Specialty Gases, Inc.*, 914 F. Supp. 104, 109 (E.D. Pa. 1996), *rev’d in part on other grounds*, 113 F.3d 476 (3d Cir. 1997).

9. Removal is proper under 28 U.S.C. § 1441(a) because this Court has original jurisdiction over Plaintiffs’ Equal Pay Act claims under 28 U.S.C. § 1331. *See Koresko v. Murphy*,

464 F. Supp. 2d 463, 467 (E.D. Pa. 2006) *quoting Empire Healthchoice Assurance, Inc. v. McVeigh*, 547 U.S. 677, 690 (2006).

10. This Court has supplemental jurisdiction over the rest of Plaintiffs' claims under 28 U.S.C. § 1367.

11. The state court where this suit has been pending is located within this district, making venue proper under 28 U.S.C. § 1441(a).

12. Copies of all pleadings, process, orders, and other filings in the state court suit are attached to this Notice, as required by 28 U.S.C. § 1446(a). The state court docket report is attached as Exhibit C.

13. Defendant will promptly file a copy of this notice of removal with the Court of Common Pleas of Philadelphia County, Pennsylvania.

14. In sum, removal is proper because Plaintiffs allege claims under federal law and Defendant has satisfied the procedural requirements for removal.

Respectfully submitted,

**PIETRAGALLO GORDON ALFANO
BOSICK & RASPANTI, LLP**

By: /s/ Joseph L. Gordon
Gaetan J. Alfano, Esq. (SBN 32971)
GJA@Pietragallo.com
Joseph L. Gordon, Esq. (SBN 209075)
JLG@Pietragallo.com
Jeremy E. Abay, Esq. (SBN 316730)
JEA@Pietragallo.com
1818 Market Street, Suite 3402
Philadelphia, Pennsylvania 19103
Telephone: (215) 320-6200
Fax: (215) 754-5173

*Attorneys for Thomas Jefferson University
Hospitals, Inc.*

Dated: July 27, 2021

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ELIZABETH TILY, SHAUNA BERMAN,
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Philadelphia County, Case No. 210700261

WRITTEN NOTICE TO ADVERSE PARTIES AND STATE COURT

Pursuant to 28 U.S.C. § 1446(d), you are hereby notified that Defendant Thomas Jefferson University Hospitals, Inc. has filed the attached Notice of Removal in the United States District Court for the Eastern District of Pennsylvania. Defendant has filed a copy of this Notice with the Office of Judicial Records for the Court of Common Pleas of Philadelphia County, Pennsylvania under Case No. 210700261.

Respectfully submitted,

**PIETRAGALLO GORDON ALFANO
BOSICK & RASPANTI, LLP**

By: /s/ Joseph L. Gordon
Gaetan J. Alfano, Esq. (SBN 32971)
GJA@Pietragallo.com
Joseph L. Gordon, Esq. (SBN 209075)
JLG@Pietragallo.com
Jeremy E. Abay, Esq. (SBN 316730)

JEA@Pietragallo.com
1818 Market Street, Suite 3402
Philadelphia, Pennsylvania 19103
Telephone: (215) 320-6200
Fax: (215) 754-5173

*Attorneys for Thomas Jefferson University
Hospitals, Inc.*

Dated: July 27, 2021

CERTIFICATE OF SERVICE

I hereby certified that I caused a true and correct copy of the within Notice of Removal, Written Notice to Adverse Parties and State Court, and Exhibits A–C to be served on the below date by first-class mail, postage prepaid, on Plaintiffs’ counsel of record:

Ari R. Karpf, Esq.
KARPF, KARPF, CERUTTI, P.C.
3331 Street Road
Two Greenwood Square
Suite 128
Bensalem, PA 19020

**PIETRAGALLO GORDON ALFANO
BOSICK & RASPANTI, LLP**

By: /s/ Joseph L. Gordon
Joseph L. Gordon, Esq.

*Attorney for Thomas Jefferson University
Hospitals, Inc.*

Dated: July 27, 2021